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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/657,945	09/09/2003	James T. King	KING.UTL	1610
21590	7590	04/14/2005	EXAMINER	
GREG O'BRADOVICH, P.C. 295 CULVER STREET SUITE A LAWRENCEVILLE, GA 30045			DABNEY, PHYLESHA LARVINIA	
			ART UNIT	PAPER NUMBER
			2643	

DATE MAILED: 04/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/657,945

Applicant(s)

KING, JAMES T.

Examiner

Phylesha L Dabney

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 9-11 and 16-20 is/are rejected.
- 7) ☒ Claim(s) 5-8, 12-15 and 21 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>9/9/03</u> . | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

This action is in response to the application filed on 9 September 2005 in which claims 1-21 are pending.

#### ***Claim Objections***

Claim 5 is objected to because of the following informalities: the adjective “boundary” should be followed by the word “button”. Appropriate correction is required.

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4, 9-11, and 16-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Cole (U.S. Patent No. 4,051,330).

Regarding claim 1, Cole teaches a hearing aid, comprising: a main body (3) having a forward end and a rear end; a forward face having an upper surface; a speaker (14) oriented in the rear end; a microphone element (12) oriented in the forward face; and a boundary button (56) connected to the forward face and oriented over and generally parallel to the microphone.

Regarding claim 2, Cole teaches legs (62, 64) connected between a lower surface of the boundary button and the upper surface of the forward face.

Regarding claim 3, Cole teaches a space formed between the forward face and the

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boundary button, the width of the space generally being defined by the length of the legs (62, 64; fig. 4).

Regarding claim 4, Cole teaches the space is a pressure zone (58, 70, 72).

Regarding claims 9 and 16, Cole teaches a microphone, comprising: a first boundary (56, boundary button) having a first surface; a microphone pressure membrane (58, 70, 72); pressure zone) oriented in the boundary generally flush with the first surface; and a second boundary (12) generally parallel to the first boundary, the second boundary being oriented directly in front of the membrane and parallel to the membrane, which inherently effects the hemispherical pattern.

Regarding claims 10-11, Cole teaches legs (62, 64) connected between the first surface and the second boundary.

Regarding claim 17, Cole teaches a hearing aid kit, comprising: a hearing aid (2) having a forward face and a microphone (12) oriented in the forward face; and a boundary button (56) adapted to be connected to the forward face.

Regarding claim 18, Cole teaches the forward face (3 with respect to 12) is a first boundary, the microphone (12) being positioned in the first boundary flush to the first boundary.

Regarding claims 19-20, Cole teaches the boundary button (56) is a second boundary, the second boundary being adapted to create a pressure zone (58, 70, 72) between the microphone (12) and the second boundary (56) when the boundary button is mounted on the forward face.

***Allowable Subject Matter***

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Claims 5-8, 12-15, and 21 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

*Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phylesha L Dabney whose telephone number is 571-272-7494. The examiner can normally be reached on Mondays, Tuesdays, Wednesdays, Fridays 8:30-4 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Curtis Kuntz can be reached on 571-272-7499. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

April 5, 2005

  
PLD

  
CURTIS KUNTZ  
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